

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO**

**STATE OF NEW MEXICO, *ex rel.*
State Engineer**

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM

Chama Mainstream Section

**STIPULATED ORDER AMENDING ORDERS
ENTERED MAY 29, 2002 AND JULY 1, 2002**

THIS MATTER is before the Court on the May 29, 2002 Order and Continuing Injunction (Docket No. 6714) that required the Acequia del Rio de Chama and its commissioners (“Acequia”) to replace the official acequia measurement station by June 28, 2002, and the Order entered July 1, 2002 (No. 6771) extending the deadline for the replacement of that measurement station until January 1, 2003.

In a telephone conference with the Court on December 23, 2002, the State of New Mexico and the Acequia informed the Court that they have agreed that the measurement station will be replaced by the Office of the State Engineer/Interstate Stream Commission (“OSE/ISC”) rather than by the Acequia pursuant to an agreement to share costs as follows:

- (1) the OSE/ISC will hire a contractor to replace the acequia measurement station and the Acequia will be responsible for 20% of the contractor’s installation charges or \$1,000.00 whichever is less.
- (2) the Acequia will be responsible for the cost of the equipment required, including the

cost of replacing any metering equipment that has been damaged and is no longer useable.

- (3) the contractor will use the flume, stilling well and other gauging equipment ordered by the Acequia (assuming the ordered items are acceptable), and the Acequia will not be reimbursed for these costs. Use of these items is subject to their inspection and approval by the OSE/ISC.
- (4) the OSE/ISC will accept on its usual terms a low interest loan application for the amount due from the Acequia.
- (5) the contractor will install the gauging station along the upper section of the acequia approximately 500 feet below the river diversion structure. The exact location will be designated by the Rio Chama watermaster.
- (6) as part of the same project as the installation of the measurement station, the contractor will install a sluicing gate upstream from the gauging station. The OSE/ISC will supply the equipment for the sluicing gate at no cost.

IT IS THEREFORE ORDERED that the Orders entered May 29, 2002 and July 1, 2002 are amended as follows:

1. The OSE/ISC rather than the Acequia will replace the official acequia measurement station.
2. The Acequia will share the cost of the installation of the measurement station under the terms described in paragraphs (1) through (6) above.
3. The replacement of the measurement station will take place as soon as possible,

weather permitting, but in no case later than April 1, 2003.

4. The contractor hired by the OSE/ISC will coordinate his activities with the Acequia with regard to access to the construction site.
5. After the contractor notifies the Acequia of the date when construction will begin, the Acequia will ensure that no water is diverted into the ditch for at least 10 days prior to the start of construction.
6. Further progress reports by the Acequia are not required, and the OSE/ISC shall file a final report with the Court concerning the replacement of the measurement station once the project is completed.
7. Other than as described above, all other portions of the Court's May 29, 2002 and July 1, 2002 Orders remain in effect.

/electronic signature/

JOHN EDWARDS CONWAY
UNITED STATES DISTRICT JUDGE

Recommended by:

/electronic signature/

Leslie C. Smith, Magistrate Judge

Approved as to form and substance:

telephonic approval 1/6/03

Edward G. Newville, Esq.
Attorney for OSE/ISC

telephonic approval 1/6/03

Fred J. Waltz, Esq.
Attorney for Acequia del Rio de Chama

